

AMENDED IN ASSEMBLY MAY 5, 2011  
AMENDED IN ASSEMBLY MARCH 31, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 841**

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**Introduced by Assembly Member Buchanan**

February 17, 2011

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An act to add Section 285 to the Public Utilities Code, relating to telecommunications, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 841, as amended, Buchanan. Telecommunications: universal service: Voice over Internet Protocol (VoIP).

**Existing**

(1) *Existing* law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including telephone corporations.

Existing law establishes six funds in the State Treasury through which the state's universal service programs are funded. Existing law requires that moneys in the funds may only be expended for specified purposes and upon appropriation in the annual Budget Act or upon supplemental appropriation.

This bill would authorize the commission to require interconnected Voice over Internet Protocol (VoIP) service providers to collect and remit surcharges on their California intrastate revenues in support of the universal service funds. ~~By authorizing extension of universal service surcharges to VoIP subscribers the bill would make a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

(2) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 285 is added to the Public Utilities Code,  
2 to read:

3 285. (a) As used in this section, “interconnected Voice over  
4 Internet Protocol (VoIP) service” has the same meaning as in  
5 Section 9.3 of Title 47 of the Code of Federal Regulations.

6 (b) This section does not confer jurisdiction to the commission,  
7 or to any other entity, to regulate interconnected VoIP service or  
8 to regulate providers of interconnected VoIP service, except for  
9 the sole purpose to impose surcharges pursuant to this section. The  
10 sole purpose of this section is to ensure that end-use customers of  
11 interconnected VoIP service providers contribute to the funds  
12 enumerated in this section, and therefore, this section does not  
13 confer other authority or indicate legislative intent with respect to  
14 any other purpose.

15 (c) The commission may require interconnected VoIP service  
16 providers to collect and remit surcharges on their California  
17 intrastate revenues in support of the following public purpose  
18 program funds:

19 (1) California High-Cost Fund-A Administrative Committee  
20 Fund under Section 275.

21 (2) California High-Cost Fund-B Administrative Committee  
22 Fund under Section 276.

23 (3) Universal Lifeline Telephone Service Trust Administrative  
24 Committee Fund under Section 277.

1 (4) Deaf and Disabled Telecommunications Program  
2 Administrative Committee Fund under Section 278.

3 (5) California Teleconnect Fund Administrative Committee  
4 Fund under Section 280.

5 (6) California Advanced Services Fund under Section 281.

6 (d) The authority to impose a surcharge pursuant to this section  
7 applies only to a surcharge imposed on end-use customers for  
8 interconnected VoIP service provided to an end-use customer's  
9 place of primary use that is located within California. As used in  
10 this subdivision, "place of primary use" means the street address  
11 where the end-use customer's use of interconnected VoIP service  
12 primarily occurs, or a reasonable proxy as determined by the  
13 interconnected VoIP service provider, such as the customer's  
14 registered location for 911 purposes.

15 (e) (1) For the purposes of determining what revenues are  
16 subject to a surcharge imposed pursuant to this section, an  
17 interconnected VoIP service provider may use any of the following  
18 methodologies to identify intrastate revenues:

19 (A) The inverse of the interstate safe harbor percentage  
20 established by the Federal Communications Commission for  
21 interconnected VoIP service for federal universal service  
22 contribution purposes, as these percentages may be revised from  
23 time to time.

24 (B) A traffic study specific to the interconnected VoIP service  
25 provider allocating revenues between the federal and state  
26 jurisdictions.

27 (C) Another means of accurately apportioning interconnected  
28 VoIP service between federal and state jurisdictions.

29 (2) The methodology chosen pursuant to paragraph (1) shall be  
30 consistent with the revenue allocation methodology the provider  
31 uses to determine its federal universal service contribution  
32 obligations.

33 (3) It is the intent of the Legislature that a traffic study described  
34 in subparagraph (B) of paragraph (1) is excluded from public  
35 inspection pursuant to Public Utilities Commission General Order  
36 66-C, because the disclosure of these studies would place the  
37 provider at an unfair business disadvantage.

38 *SEC. 2. This act is an urgency statute necessary for the*  
39 *immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*  
2 *immediate effect. The facts constituting the necessity are:*  
3 *In order to ensure the Public Utilities Commission has the*  
4 *necessary statutory direction to fund the state's universal service*  
5 *programs at the earliest possible time, it is necessary for this act*  
6 *to take effect immediately.*

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